

Approved For Release 2001/07/26 : CIA-RDP72-00337R000300120002-1

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
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OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
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ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks: Per our conversation, this is a copy of material previously sent on pending active legislation on equal employment opportunities. Any input from CSC on their view on prospects for passage or their plans should the legislation be approved by Congress would be helpful. It is assumed the Agency would want to be exempted from this legislation which would be the case if the House language prevails.			
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			18 SEP 1970
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<p>Remarks: The attached entails reported out legis- lation which may have an adverse impact upon the Agency. We will be looking into prospects for passage and will be interested in any information you might have on CSC's plans, which along with the Administration strongly opposed the change affecting Federal employees.</p> <p style="text-align: right;">STATINTL</p> <p>Copies have also been sent to [REDACTED] [REDACTED] and General Counsel</p>					
FOLD HERE TO RETURN TO SENDER					
FROM: NAME, ADDRESS AND PHONE NO.				DATE	
				11 SEP 1970	
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Remarks: Per our conversation this morning. The Civil Service Commission and Administration strongly opposed this change. We would appreciate any information you may have or may be able to obtain through normal channels on prospects for passage or probable course of action, if passed. We will be looking into the prospects for passage also.			
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INTERNAL USE ONLY

11 September 1970

MEMORANDUM FOR THE RECORD


SUBJECT: Equal Employment Opportunities Enforcement Act
(H. R. 17555, S. 2453)

1. On 21 August 1970 both the Committee on Education and Labor in the House and the Committee on Labor and Public Welfare in the Senate favorably reported bills providing a method for enforcing the rights of workers under the Civil Rights Act of 1964, as amended.

2. Of concern to the Agency is that the reported out bills: (1) transfer the equal employment opportunity functions pertaining to federal employees now assigned by executive order to the Civil Service Commission to the Equal Employment Opportunity Commission, and (2) authorize an aggrieved employee or applicant to file a civil action against the head of an agency if aggrieved by the final disposition of his complaint by the EEOC.

3. The provision of concern to the Agency differs in each bill as can be seen in the appropriate sections attached hereto. There is no question that the Agency is covered by the terms of section 715 of the Senate bill (S. 2453), which becomes effective one year after date of enactment of the bill. On the basis that the Agency is not normally considered to be service within the "competitive service" the Agency would not be affected by section 717 of the House bill (H. R. 17555), which becomes effective six months after enactment.

4. Arguments against these employee/applicant provisions parallel those made against the Ervin bill.


Assistant Legislative Counsel

Distribution:

STATINTL

Orig - Subj

1 - Chrn

OLC/LLM:smg (11 Sept. '70)

INTERNAL USE ONLY

Sec. 715. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), and in those portions of the government of the District of Columbia, and the legislative and judicial branches of the Federal Government having positions in the competitive service, shall be made free from any discrimination based on race, color, religion, sex, or national origin.

(b) The Equal Employment Opportunity Commission shall have authority to enforce the provision of subsection (a) and shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities hereunder, and the head of each executive department and agency and the appropriate officers of the District of Columbia shall comply with such rules, regulations, orders, and

instructions: Provided, That such rules and regulations shall provide that an employee or applicant for employment shall be notified of any final action taken on any complaint filed by him thereunder.

(c) Within thirty days of receipt of notice, given pursuant to subsection (b) or a previously issued Executive order, of final action taken on a complaint of discrimination based on race, color, religion, sex, or national origin, or after ninety days from the filing of the initial charge until such time as final action may be taken, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706(q), in which civil action the head of the executive department or agency, or the District of Columbia, as appropriate, shall be the respondent.

(d) The provisions of section 706 (q) through (w), as applicable, shall govern civil actions brought hereunder.

(e) All functions of the Civil Service Commission which the Director of the Office of Management and Budget determines relate to nondiscrimination in Government employment are transferred to the Equal Employment Opportunity Commission.

(f) This section shall become effective one year after the date of enactment of this Act.

(g) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution, statutes, and Executive orders.

NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

SEC. 717.¹ (a) All personnel actions affecting employees or applicants for employment in the competitive service (as defined in section 2102 of title 5 of the United States Code) or employees or applicants for employment in positions with the District of Columbia government covered by the Civil Service Retirement Act shall be made free from any discrimination based on race, color, religion, sex, or national origin.

(b) The Equal Employment Opportunity Commission shall have authority to enforce the provision of subsection (a) and shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities hereunder, and the head of each executive department and agency and the appropriate officers of the District of Columbia shall comply with such rules, regulations, orders, and instructions: Provided, That such rules and regulations shall provide that an employee or applicant for employment shall be notified of any final action taken on any complaint filed by him thereunder.

(c) Within thirty days of receipt of notice given under subsection (b), the employee or applicant for employment, if aggrieved by the final disposition of his complaint, may file a civil action as provided in section 715, in which civil action the head of the executive department or agency, or the District of Columbia, as appropriate, shall be the respondent.

(d) The provisions of section 715 shall govern civil actions brought hereunder.

(e) All functions of the Civil Service Commission which the Director of the Bureau of the Budget determines relate to nondiscrimination in government employment are transferred to the Equal Employment Opportunity Commission.

EFFECT UPON OTHER LAW

SEC. 718. Nothing contained in this Act shall relieve any government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution, statutes, and Executive orders.

TITLE 5, UNITED STATES CODE

§ 5314. Positions at level III.

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$40,000:

* * * * *

(55) Chairman, Equal Employment Opportunity Commission.

§ 5315. Positions at level IV.

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$38,000:

* * * * *

(72) [Chairman] Members, Equal Employment Opportunity Commission (4).

* * * * *

¹ Effective six months after date of enactment.

SECRET

Journal - Office of Legislative Counsel
Thursday - 24 September 1970

Page 2

5. (Internal Use Only - RJK) Per his request left with James Sheldon, the Research Assistant to Representative Fletcher Thompson (R., Ga.), excerpts from the Daily Worker of 23, 26, and 27 May 1970. These items dealt with a peace march through the Congressman's home state.

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6. (Internal Use Only - DSJ) Mrs. Garver, in the office of Representative Bill Chappell, Jr. (D., Fla.), called to request an employment interview for a constituent, [REDACTED]. After checking with [REDACTED], Office of Personnel, I advised Mrs. Garver that an appointment has been scheduled for Monday, 5 October 1970 at 11:00 a.m.

25X1A

7. (Internal Use Only - LLM) As suggested by Bob Vagley, House Education and Labor Committee staff, to [REDACTED], called Eugene Mittelman, Minority Counsel, Senate Labor and Public Welfare Committee, and discussed the prospects of favorable Senate action on S. 2453 (Equal Employment Opportunity Enforcement Act). He said the prospects are as good as they have been for some time but identified a number of hurdles. I briefly identified our interest and the distinction between the Senate and House bills on the Federal employee provision. Mittelman said it was not their intent to apply this provision to the noncompetitive service and he was thankful that we had brought his attention to the fact that the language in the Senate bill could be interpreted otherwise.

25X1A

8. (Confidential - JGO) Talked to Evelyn DePue, Frank Chapin's secretary, who told me that birthday greetings for [REDACTED] are being forwarded. She was unable to ascertain at the moment, however, whether the greetings are being sent in card or letter form or by telegram.

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[REDACTED] WH Division has been advised. See Memorandum for the Record dated 15 September 1970.

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9. (Confidential - JGO) Met with Representative Roger H. Zion (R., Ind.) and arranged an appointment for Monday afternoon at 2:00 p.m. in the Rayburn Room of the Capitol to meet with [REDACTED] of TSD concerning Representative Zion's recent interview with [REDACTED]. [REDACTED] has been advised.

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JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Wednesday - 23 September 1970

1. (Secret - JMM) Mr. Houston and I met with Mr. Fred Buzhardt, General Counsel, Department of Defense, and discussed common problems relating to pending legislation, particularly with regard to the Fulbright amendment to the military procurement authorization bill. See Mr. Houston's Memorandum for the Record.

2. (Confidential - GLC) Dorothy Fosdick, on the staff of the Senate Subcommittee on National Security and International Operations, called and said both she and the Senator appreciated the briefing which she and Richard Perle received here on Saturday. She said as a followup the Senator had asked her to get for him from the Agency what she referred



3. (Internal Use Only - LLM) Spoke with Miss Ethel Bixler, in the Civil Service Commission, concerning the Equal Employment Opportunity Enforcement Act bills that are now active on the Hill. She reviewed the Commission's opposition to the section applying to Federal employees and reported that action is more likely in the Senate where it is on the calendar than the House where the Rules Committee is an additional hurdle. Miss Bixler was not in the position to say what the recommendations of the Commission might be to the Office of Management and Budget if the legislation is approved by this Congress.

SECRET

CONFIDENTIAL

22 September 1970

MEMORANDUM FOR THE RECORD

**SUBJECT: Conversation with Bob Vagley, on the Staff of the House
Committee on Education and Labor**

1. I talked today with Bob Vagley about our views on the Equal Employment Opportunities Enforcement legislation. Both the Senate and House bills (S. 2453 and H. R. 17555) have been reported by their respective committees and the Senate bill is on the Senate calendar. I told Vagley that we would not be included in the definition of employees in the House bill, but would be covered by the terms of the comparable language in the Senate bill. I then pointed out the problem we would have if Agency employees and applicants could file suits in the courts under this legislation. I compared this with the similar situation that would exist in Senator Ervin's so-called Bill of Rights for Government Employees (S. 782) and assumed that this could leave all Government agencies open to harassment through suits by persons who would file application for Government employment and then allege violations of the provisions of the act.

2. Vagley said he could see how this would be a problem and said he would do everything he could for us in the House. He went on to say he doubted very seriously that the House Rules Committee would grant a rule for consideration of this legislation in the House this year, especially if the Congress adjourns by the end of October. He suggested that we also discuss our problem with Eugene Mittelman, of the Senate Labor and Public Welfare Committee staff.

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Deputy Legislative Counsel

Distribution:

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OLC/GLC:rw (23 Sep 70)

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